IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7818 of 1990

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJ STATE ROAD TRANSPORT CORPN

Versus

MOHAN VIRABHAI SOLANKI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR Murli Devnani for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 28/07/2000

ORAL JUDGEMENT

This is a petition under Article 227 of the Constitution of India preferred against the award of reinstatement with backwages passed on 16.7.1990 by the Labour Court, Rajkot.

2. The petitioner who is employed as conductor of a bus of the petitioner Gujarat State Road Transport Corporation was chargesheeted for carrying 10 passengers without issuing tickets to them and collecting fare from the. He was also charged for allowing 2 passengers to travel without issuing them tickets.

3. A domestic inquiry was held and on holding the charges proved, his services were terminated on 31.8.1984. He approached the Labour Court and order for reinstatement with back wages was passed on 16.7.1990. Learned Counsel appearing for the Corporation submits that the checking staff had recorded the statements of passengers and it was not necessary in domestic inquiry to summon the passengers as witnesses to be cross-examined by the delinquent. Reliance is placed on the decision of State of Haryana Vs. Ratansingh reported in AIR 1977 SC 1512.

4. On the question of punishment, Ld. Counsel appearing for the Corporation submits that the charge held proved is of negligence yet the Labour Court only passed orders of depriving the conductor of back wages which is no punishment. It is submitted that if the conductors are allowed to go scot-free even after they are found guilty of not issuing tickets, it would send a very wrong signal to other employees of his class. It is submitted that even on the misconduct of alleged negligence some punishment ought to have been imposed.

5. I have also heard Mr.Murali Devnani, Ld. Counsel appearing for the respondent conductor. It is pointed out to me that on the evidence led, the Labour Court has only found guilty the conductor of having not issued tickets. There is no finding recorded that he has also collected fares from the passengers. It is on the above finding that the main charge of dishonest intention to deprive the Corporation of its money and fare has not been held to have been proved.

6. It is also pointed out on behalf of the conductor that he was terminated in 1984 but after the order of the Labour Court, in 1990, he was reinstated in service. In ignorance of that fact, this Court granted a stay in favour of the employer on the conditions of compliance of payment of last salary drawn under Section 17-B of the I.D. Act. The Ld. Counsel on behalf of the Corporation admits that the respondent conductor has already been reinstated in service and as a result continues to be in service from 1990.

7. After hearing the Ld. Counsel for the parties, I find no ground to interfere with the findings of the Labour Court in the impugned order. There is some force in the submissions made on behalf of the Corporation that mere deprivation of backwages cannot be held to be any punishment for misconduct of negligence held proved against the conductor. Since a long period has elapsed after passing of the order and the conductor is already in employment, in my considered opinion, apart from the deprivation of back wages which is an order already made by the Labour Court, as a warning and caution to him to perform diligently and honestly in future, the punishment of stoppage of one increment for one year is imposed on the conductor.

8. With the above modifications to the Award of the Labour Court, the petition partly succeeds. Rule discharged. No order as to costs.

(D.M.Dharmadhikari, CJ)

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